

## § 1.851-3

## 26 CFR Ch. I (4-1-04 Edition)

### § 1.851-3 Rules applicable to section 851(b)(4).

In determining the value of the taxpayer's investment in the securities of any one issuer, for the purposes of subparagraph (B) of section 851(b)(4), there shall be included its proper proportion of the investment of any other corporation, a member of a controlled group, in the securities of such issuer. See example 4 in § 1.851-5. For purposes of §§ 1.851-2, 1.851-4, 1.851-5, and 1.851-6, the terms "controls", "controlled group", and "value" have the meaning assigned to them by section 851(c). All other terms used in such sections have the same meaning as when used in the Investment Company Act of 1940 (15 U.S.C., chapter 2D) or that act as amended.

### § 1.851-4 Determination of status.

With respect to the effect which certain discrepancies between the value of its various investments and the requirements of section 851(b)(4) and paragraph (c) of § 1.851-2, or the effect that the elimination of such discrepancies will have on the status of a company as a regulated investment company for purposes of part I, subchapter M, chapter 1 of the Code, see section 851(d). A company claiming to be a regulated investment company shall keep sufficient records as to investments so as to be able to show that it has complied with the provisions of section 851 during the taxable year. Such records shall be kept at all times available for inspection by any internal revenue officer or employee and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

[T.D. 6598, 27 FR 4090, Apr. 28, 1962]

### § 1.851-5 Examples.

The provisions of section 851 may be illustrated by the following examples:

*Example 1.* Investment Company W at the close of its first quarter of the taxable year has its assets invested as follows:

	Percent
Cash .....	5
Government securities .....	10
Securities of regulated investment companies .....	20
Securities of Corporation A .....	10
Securities of Corporation B .....	15

	Percent
Securities of Corporation C .....	20
Securities of various corporations (not exceeding 5 percent of its assets in any one company) ....	20
Total .....	100

Investment Company W owns all of the voting stock of Corporations A and B, 15 percent of the voting stock of Corporation C, and less than 10 percent of the voting stock of the other corporations. None of the corporations is a member of a controlled group. Investment Company W meets the requirements under section 851(b)(4) at the end of its first quarter. It complies with subparagraph (A) of section 851(b)(4) since it has 55 percent of its assets invested as provided in such subparagraph. It complies with subparagraph (B) of section 851(b)(4) since it does not have more than 25 percent of its assets invested in the securities of any one issuer, or of two or more issuers which it controls.

*Example 2.* Investment Company V at the close of a particular quarter of the taxable year has its assets invested as follows:

	Percent
Cash .....	10
Government securities .....	35
Securities of Corporation A .....	7
Securities of Corporation B .....	12
Securities of Corporation C .....	15
Securities of Corporation D .....	21
Total .....	100

Investment Company V fails to meet the requirements of subparagraph (A) of section 851(b)(4) since its assets invested in Corporations A, B, C, and D exceed in each case 5 percent of the value of the total assets of the company at the close of the particular quarter.

*Example 3.* Investment Company X at the close of the particular quarter of the taxable year has its assets invested as follows:

	Percent
Cash and Government securities .....	20
Securities of Corporation A .....	5
Securities of Corporation B .....	10
Securities of Corporation C .....	25
Securities of various corporations (not exceeding 5 percent of its assets in any one company) ....	40
Total .....	100

Investment Company X owns more than 20 percent of the voting power of Corporations B and C and less than 10 percent of the voting power of all of the other corporations. Corporation B manufactures radios and Corporation C acts as its distributor and also distributes radios for other companies. Investment Company X fails to meet the requirements of subparagraph (B) of section 851(b)(4) since it has 35 percent of its assets invested in the securities of two issuers